IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WA.No. 622 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.25923/2005 Dated 04/08/2006
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APPELLANTS: PETITIONERS
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1. V.V.NATESAN, PCK 4972, VELLOOR POLICE STATION, KOTTAYAM.

2. XAVIER M.A., PCK 4973, TRAFFIC POLICE STATION, KOTTAYAM.

BY ADV. SRI.K.B.GANGESH
SRI.ANIL GEORGE

RESPONDENTS: RESPONDENTS
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1. STATE OF KERALA REP.BY THE SECRETARY TO GOVERNMENT, HOME DEPARTMENT, THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE, DISRICT POLICE OFFICE, KOTTAYAM.

BY GOVERNMENT PLEADER SRI.SANDESH RAJA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ.
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W.A. NO.622 OF 2007
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Dated this the 12th day of July, 2007

J U D G M E N T

Radhakrishnan, J.

Petitioners are the appellants. Writ petition was preferred seeking a writ of certiorari to quash Ext.P1 order and also for a mandamus directing the respondents not to recover any amount from the petitioner's pay and continue to pay the petitioner's in the present pay scale ignoring Ext.P1 order and also for other consequential reliefs. On the basis of an audit objection, pay was refixed and excess pay and allowances drawn by the petitioners for the period from 17/5/2000 was sought to be recovered.

2. Petitioners are Police Constables. The 2nd respondent fixed the petitioners pay as Constables by sanctioning time bound higher grade in the scale of pay of Rs.4000-6090 with effect from 1.11.1998. Contending that the petitioners were entitled to get the benefit of the higher pay scale with effect from 1.3.1997, they submitted representations before the 2nd respondent, who passed

Ext.P5 and P6 orders sanctioning the revised scale of time bound higher grade with effect from 1.3.97 and paid the arrears as well. However, the audit raised objections against the grant of pay and allowances in the revised scale of time bound higher grade with effect from 1.3.97, and consequently Ext.P1 order was passed setting aside the earlier orders.

3. According to the respondents, the petitioners are entitled to get time bound higher grade only with effect from 25.11.1998 and not with effect from 1.3.97. Reference was made to Para 5(1)(b)(i) of G.O.(P) No.3000/98/Fin dated 25.11.1998 wherein it is stated that “the existing time bound higher grade promotion scheme and the grades to be assigned on revision of pay scales under the scheme will be modified as specified in the Table I and II of the order with effect from the date of the order”.

4. Respondents stand was that consequential sanction of higher grade could be paid only with effect from 25.11.98 which was erroneously sanctioned with effect from 1.3.97, which was

subsequently clarified by G.O(P) No.174/2000/Home. dated 18.7.2000 as well. Further it is stated that the benefit of G.O(P) No.234/99/Home. dated 24.11.99 (Ext.P3) for granting the benefit of time bound higher grade on completion of ten years service after passing one of the tests prescribed in the Battalion/AR/General Executive has been given to the petitioners. It is clear from Ext.P3 order that there is specific reference to G.O (P) No.3000/98/Fin dated 25.11.998, which clearly says that the time bound higher grade would be given effect from the date of the order, that is from 25.11.1998.

5. Learned counsel appearing for the appellants submitted that several others are enjoying the benefit, while the petitioners have been singled out.

6. Learned Government Pleader brought to our knowledge an order No.A4(b)260/07 K dated 24.3.2007, wherein excess amount paid is sought to be recovered from various other persons. We therefore find no base in that contention. In the

circumstances, writ appeal lacks merits. Dismissed.

7. Respondents are directed to inform the appellants about the actual amounts due from them and they will be given instalment facilities as ordered by the learned Single Judge for re-payment.

K.S.RADHAKRISHNAN, JUDGE.

ANTONY DOMINIC, JUDGE.

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